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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,964	12/15/2003	Boleslaw Tulaczko	4452-451DIV	3376

7590

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EXAMINER

LORENCE, RICHARD M

ART UNIT

PAPER NUMBER

3681

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,964

Applicant(s)

TULACZKO ET AL.

Examiner

Richard M. Lorence

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 7 and 8 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☒ Certified copies of the priority documents have been received in Application No. 10/053,334.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/15/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This is the first Office action on the merits of Application No. 10/735,964 filed on December 15, 2003. The preliminary amendment filed on December 15, 2003 has been entered. The specification and claims 1, 7 and 9 have been amended and claims 2-6 have been cancelled accordingly. Claims 1 and 7-10 are currently pending.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 10/053,334, filed on January 18, 2002.

Specification

The disclosure is objected to because of the following informalities: The reference back to the parent application should be updated to include the patent number thereof. Appropriate correction is required.

Claim Objections

Claim 8 is objected to because of the following informalities: In line 2 before "moving", - - roller - - should be inserted. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7 and 8 are and rejected under 35 U.S.C. 103(a) as being unpatentable over Ota '178 in view of Shinto et al. '497. The '178 patent to Ota discloses a release apparatus 12 for a clutch of a motor vehicle (column 2, lines 8-15) including a pedal 13, energy accumulator 26 and the kinematic arrangement comprising a rolling cam on the follower 14 and roller 21 on arm 22 of the pedal which influences the characteristic curve of the boosting force as depicted in Figure 5. The follower includes a first joint at 20a and a second joint where the spring 26 is attached as described at column 3, lines 37-40. Ota does not disclose the master cylinder, but instead transmits the motion of the pedal to the clutch via a mechanical linkage.

Shinto et al. provides evidence that it was known at the time the invention was made to employ a master cylinder in conjunction with a clutch actuation pedal as described at column 2, lines 23-25. It would have been obvious to one having ordinary skill in the art at the time the invention was made to connect the clutch pedal and link 25 of Ota to the vehicle clutch by means of a hydraulic system including a master cylinder in the well known manner suggested by Shinto et al.

Allowable Subject Matter

Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art Citation

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited by applicant which is listed on the attached form PTO-1449 has been considered.


The examiner further makes of record the following patents which were cited during prosecution of the parent application: Binder '438 which shows a variable ratio clutch release lever and is cited primarily for the showing of the alternative use of mechanical linkages or hydraulic equivalents in the actuation of clutches; Pezza '471 which suggests that pedal assist mechanisms may be used in conjunction with brake pedals as well as clutch pedals; and Papenhagen et al. '012 which shows a clutch pedal in combination with an assist mechanism and a master cylinder.

Newly cited Gans '354, Pooley '607, Janosi '831, Janosi '779, Schroter '995, Lewis '537, and Isono (JP 5-185912) show pedal assist devices including a cam and follower.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard M. Lorence whose telephone number is (703) 308-3062. The examiner can normally be reached on Mondays through Fridays from 9:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (703) 308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Richard M. Lorence
Primary Examiner
Art Unit 3681

Lorence/rml